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IN THE

Supreme Court of the United States

OCTOBER TERM, 1948

No. 142

CESARIO CAMPA, ALIAS CESAR CAMPA, PETITIONER,

versus

UNITED STATES OF AMERICA

On Petition for a Writ of Certiorari to the United States Circuit Court of Appeals for the Fifth Circuit.

Motion and Petition to Set Aside Denial and for the Trial of Case by the Whole Court.

FLOYD DUKE JAMES, Attorney for Movant and Petitioner, Cesario Campa, Alias Cesar Campa.

LODOVIC PRINTING CO., SAN ANTONIO, TEXAS

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TO THE HONORABLE JUSTICES OF THE SUPREME COURT:

Now comes Cesario Campa, alias Cesar Campa, moving and petitioning the court to set aside the said denial of the petition for Writ of Certiorari to the United States

Circuit Court of Appeals for the Fifth Circuit, and herein try and adjudge the said case as a whole Court, and for the following causes and reasons, to wit:

1. It appears that the said matters, as represented in the said case, should be tried by the Court as a whole, and in particular because Constitutional matters therein concern all the States.

2. A mere matter of filing and procedure in habeas corpus cases, such as this cause, should not be defeated, especially so, because such matters, as by cited cases, are in doubt, and as admitted by said judge. See cited cases and references on page 3, MEMORANDUM FOR PETITIONER IN REBUTTAL TO MEMORANDUM FOR THE UNITED STATES IN OPPOSITION AND MOTION.

3. Federal and Constitutional matters are herein raised and require adjudication and interpretation, not only for the said petitioner, and not only for Texas, but for all the States of the Union.

4. In particular the Constitutionality of the Texas poll tax laws is questioned, and said laws require adjudication herein, being the bases and vehicles of prosecutions herein, said laws being of concern to all the States, and all the citizens of the whole land.

5. Petitioner has pleaded and moved that Federal and Constitutional matters raised in case be decided, if writ of certiorari cannot be issued, and the laws require adjudication of such matters herein, and interpretation by the Court.

6. The petitioner suggests to the Court that he was not in the District of the trial court, in the origin below, when the said petition and application for said Writ of Habeas Corpus was made, and that the Honorable Judge of the court below was not a proper and lawful official to attorn to in the said application for a writ of habeas

corpus, even if he had desired to hear and determine same, because the said petitioner was then out of the said Western District of Texas, and was serving time in a penal servitude at Seagoville, Texas, said place of servitude being in the Northern District of Texas, another District, but within the Circuit of the United States Circuit Court of Appeals, Fifth Circuit, the Honorable Court to which the petitioner respectfully applied for the said Writ of Habeas Corpus, raising therein said Federal and Constitutional matters and questions, and attacking the validity of the said State of Texas poll tax laws, to wit, Article 3004, Revised Statutes of the State of Texas, under which laws he was herein twice convicted, and all of which has been herein filed for record.

7. The said United States Circuit Court of Appeals, or by an Honorable Justice, or by one or all, as by the record herein duly filed, denied said petition and application for the said Writ of Habeas Corpus, although, as by cited cases, the said petitioner felt that said court was the only court to which he might apply with effect and legality for said relief and remedy, and wherein he might have the said interpretation of the said Federal and Constitutional matters and laws that are concerned with his cause, and wherein he might have a test made for the validity of the said poll tax laws of the State of Texas, to wit, Article 3004, Revised Statutes of the State of Texas.

8. The said United States Circuit Court of Appeals, Fifth Circuit, New Orleans, La., did on said date, in error, deny said application for Writ of Habeas Corpus, or an Honorable Justice thereof did same for the Honorable

Court, and also thereby, in error, in effect upheld the validity of said Constitutional and Federal questions and matters as herein raised, and did, in error, and in effect uphold the validity of the Texas poll tax laws, and Article 3004, Revised Statutes of the State of Texas, whereupon petitioner gave notice of appeal therein and applied to the Supreme Court of the United States of America for a Writ of Certiorari herein, for relief and so that such errors might be corrected.

9. The said Supreme Court did on the 11th day of October, A. D. 1948, or an Honorable Justice for same did on said date, deny said Petition for Writ of Certiorari to the United States Circuit Court of Appeals, Fifth Circuit, wherein said Federal and Constitutional questions and matters lodged, failing to give any relief and failing to set out, for the waymark of this said case and future cases and practicioners as to the proper procedure and filing in cases such as this, and all of which has been shown by cited cases to be in doubt. The petitioner respectfully cites to Appendix to Rules, Sec. 240, paragraph (a), Revised Rules of the Supreme Court of the United States, and petitioner respectfully petitions the Court to herein certify said matters herein and in this cause, as indicated therein, the same as if the cause had been brought there by unrestricted writ of error or appeal.

10. The petitioner also quotes and refers the Court to Appendix to Rules, Sec. 240, paragraph (b) of said Revised Rules of the Supreme Court. The petitioner suggests that the validity of poll tax laws of Texas, to wit, Art. 3004, and the Constitutionality thereof were drawn

into question in this case, and before the said United States Circuit Court of Appeals, Fifth Circuit; that the denial of the said Writ of Habeas Corpus did in effect uphold the validity of said Federal and Constitutional questions and laws, as herein complained of; that petitioner is herein entitled to have such Federal and Constitutional matters and laws ruled upon and interpreted herein, either in the nature of an appeal or writ of error herein, especially so, if the said petitioner's application for Writ of Certiorari be herein denied, and the petitioner herein agrees to same and submits accordingly, and as heretofore pleaded in the alternative.

WHEREFORE, petitioner, Cesario Campa, alias Cesar Campa, moves, petitions and prays for the Court to set aside the denial of the Writ of Certiorari, and for the trial of the cause by the whole Court, and, in case same be herein denied, that the Court, in the nature of an appeal or writ of error, herein decide the validity of the Federal and Constitutional questions and matters, as herein raised, and in particular manners determine the Constitutionality of the State of Texas, poll tax laws, Article 3004, and the petitioner and movant prays for relief, general or special, either at law or in equity, if he may be herein entitled, and prays for justice herein.

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FLOYD DUKE JAMES, Attorney for
Movant and Petitioner, Cesario Campa,
Alias Cesar Campa.

Respectfully submitted by
Floyd Duke James,
Attorney for Petitioner,
Majestic Bldg.,
San Antonio, Texas.

CERTIFICATE OF COUNSEL.

I, Floyd Duke James, counsel for the above named movant and petitioner, Cesario Campa, alias Cesar Campa, in the above entitled and numbered cause, do hereby certify that the foregoing motion and petition for re-hearing of said cause by the Court is presented in good faith and not for delay, and that service has been made and the required copies sent to the Solicitor General of the United States, Washington, D. C., within the extended time which was granted by the Court, and that the motion and petition for said re-hearing is restricted to the grounds above specified.

Respectfully submitted by

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FLOYD DUKE JAMES,
Attorney for Cesario Campa,
Alias Cesar Campa,
Movant and Petitioner.

Floyd Duke James,
Majestic Bldg.,
San Antonio, Tex.